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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,225	06/26/2003	Gary L. Koteskey	11074/009	5907
27879	7590	05/25/2005	EXAMINER	
INDIANAPOLIS OFFICE 27879 BRINKS HOFER GILSON & LIONE ONE INDIANA SQUARE, SUITE 1600 INDIANAPOLIS, IN 46204-2033			CHAPMAN, JEANETTE E	
ART UNIT		PAPER NUMBER		3635

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/607,225	KOTESKEY, GARY L.
	Examiner Chapman E Jeanette	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 18 January 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4,6-10,12-19 and 23-25 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1-4,6-10,12-14,19 and 23-25 is/are allowed.

6) Claim(s) 15-18 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 148/06 10/28/03

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hume (5608998) in view of Bradley et al (6773206). Hume discloses a molded plastic segment 10 for use in a subterranean structure of the type comprising a cylindrical body made up of at least one tier of segments (figure 6). Alternatively, Hume discloses subterranean structure having a cylindrical body about a vertical axis made up at least one ring and each ring consist essentially of a plurality of horizontally adjacent segments 10 of molded plastic, each segment comprising:

- A wall segment 10 cylindrically curved about a vertical axis having an inside and outside surface, vertical side edges and horizontal top edges and bottom edges; see figures 1-2 and 6;
- First of vertical side edges 18 including a protruding mating element not vertically tapered;
- A second vertical side edge including a slot 16/14 that is not vertically tapered ;
- The vertically side edges including confronting surfaces adapted to be brought into abutting relationship between adjacent segments of similar

construction (figure 4) but the adjacent segments are not in an interlocking engagement .

- The segment comprises a flange 22 protruding vertically from one of the horizontal edges to overlap a portion of the inside and outside surfaces of a vertically adjacent segment; see figure 5;
- A plurality of ribs/dimples 12 on the outside surface;
- A cover 50 contacting the horizontal top edge of the uppermost rings; see figure 6
- Gas seal means for securing the cover to the upper most rings

However, Hume discloses various interlocking fasteners for the horizontal attachment of segments 10. see figures 3 and 5. It would have been obvious to employ and interlocking fastener for the vertical side edges in order to provide a stronger means of attachment avoiding inadvertent detachment of the vertical edges. The interlocking fasteners are not of the dovetail (tapered) type. Such a choice is not viewed as critical to the overall function of the device; one of ordinary skill in the art would have appreciated the types of interlocking fasteners capable in aiding to fulfill the overall and intended function and purpose of the segment. Nevertheless Bradley et al discloses a molded segment with vertical side segments with interlocking fasteners. See figure 8. It would have been obvious to employ and interlocking fastener for the vertical side edges in order to provide a stronger means of attachment avoiding inadvertent detachment of the vertical edges as shown by Bradley et al.

For the method claims:

With the above modification of interlocking mating parts, it is clear that the mating elements will be joined by sliding the protruding element into the slot of a ring of segments; it is clear this step is repeated with rings as shown in figure 6. In order to insert the protrusion into the slot it is clear that the ring has to be warped to insert the bottom edge of the protrusion into the top edge of the slot or vice versa joining the top edge of the protrusion to the bottom edge of the slot. Further, Hume teaches stacking one ring upon another of similar structure so that the protruding flange overlaps a portion of one of the inside and outside surfaces of another ring. Hume discloses adding as many rings as needed to form the proper and desired height structure. If one can add to provide the desired and needed height it is obvious that rings can be subtracted if too many rings are added before the adhesive is added. A bonding agent of adhesive is added; the same is compatible with the polymers forming the segments.

Claims 1-4, 6-10, 12-14, 19 and 23-25 are allowable over the prior art of record.

Applicant's arguments have been considered but are not persuasive. The stepping of warping and engaging the mating portions would be inherent in that to mate the end portions of molded segment the molded segment has to be warped. How would one join the vertical end portions without warping the molded segment. The examiner has already disclosed that the slot and tab mating portions could also be imparted to the vertical end segments. Inherent actions are many times not stated because it is something that naturally happens, though not state or notice, to construct or form the device. The warping is inherent in order to mate the end projection in the slot. There is

no other way to join the two parts if imparted to the vertical side edges without warping the molded segment to join the ends

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeanette Chapman
Primary Examiner